

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA BRITO-CIRIACO,

No. CV12-06546 LB

Plaintiff(s),

ORDER DISMISSING CASE

V.

BOB JIAN LIN,

Defendant(s).

Because this action has settled, Plaintiff filed a notice purporting to voluntarily dismiss this action with prejudice without a court order pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I). See ECF Nos. [30] [32]. This is not allowed because, under Federal Rule of Civil Procedure 41(a)(1)(A)(I), a plaintiff may file such a notice only before the opposing party serves either an answer or a motion for summary judgment. Here, Defendant answered Plaintiff's complaint. See ECF No. [5]. Thus, to dismiss the action, the parties should have filed a stipulation to dismiss pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Under the circumstances, however, given that this action has settled, the court dismisses the action with prejudice under Federal Rule of Civil Procedure 41(a)(2).

IT IS SO ORDERED.

Dated: December 18, 2013

LAUREL BEELER
United States Magistrate Judge

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